IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 39392-M of 2006
DATE OF DECISION : 25.09.2006

Krishan Kumar

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. G.S. Hooda, Advocate, for the petitioner.
Mr. M.S. Sindhu, DAG, Haryana.

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Petitioner Krishan Kumar has filed this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 22.5.2006, passed by Additional Sessions Judge, Sonepat, whereby application filed by the petitioner for release of Indica Car bearing registration No. DL-3-CW-2447 on sapurdari in case FIR No. 275 dated 26.12.2005 under Sections 302/328/364-A/120-B/506/201/34 IPC and 25/ 54/59 of the Arms Act, has been dismissed.

2. Undisputedly, petitioner is the registered owner of the aforesaid vehicle. The trial court has dismissed his application for release of the vehicle on sarpurdari only on the ground that the vehicle in question was effectively used in commission of heinous crime punishable under Section 302 IPC.

3. I have heard counsel for the parties and gone through the impugned order.

4. Counsel for the petitioner contends that the trial court has committed illegality while declining the prayer of the petitioner for release of the vehicle on sapurdari merely because it was used in the commission of a heinous crime. While referring to the decision of the Supreme Court in ***Sunderbhai Ambalal Desai*** v. ***State of Gujarat,*** 2003 (1) RCR (Criminal), counsel contends that no useful purpose will be served by keeping the

seized vehicle at police station for a long time, as such vehicles remain unattended and become junk day by day. Counsel contends that in the said decision, the Magistrate was directed to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. Counsel for the petitioner contends that the petitioner is ready to give an undertaking that as and when the court requires the aforesaid car, he will produce the same in the same condition before the concerned court. He further relied upon decision of this Court in ***Roop Chand and Company*** v. ***State of Punjab,*** 1996 (1) RCR (Criminal) 401.

5. Undisputedly, the trial in the aforesaid case is still pending before the trial court. At present, the vehicle is standing in the police station. No useful purpose will be served, if it is allowed to remain in the police station and it will also result into its damage.

6. Thus, keeping in view the aforesaid facts and the law laid down by the Apex Court in ***Sunderbhai Ambalal Desai's case*** (supra) and in view of the undertaking given by the petitioner, as indicated above, it will be in the interest of justice if the said vehicle is ordered to be given on sapurdari to the petitioner on his furnishing proper undertaking.

7. Accordingly, this petition is allowed, the impugned order dated 22.5.2006, passed by Additional Sessions Judge, Sonepat, is set aside and the vehicle in question is ordered to be released on sapurdari to the petitioner on his executing personal bond in the sum of Rs. one lac with one surety in the like amount and the undertaking to the effect that as and when the trial court requires the aforesaid car, the petitioner will produce the same in the same condition at his own cost before the concerned court. He shall also furnish undertaking to the effect that he shall neither sell the vehicle in question nor shall change its colour or condition etc. during the pendency of trial.

September 25, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**